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Attorneys for Defendants Landowners

**UNITED STATES DISTRICT COURT**

**DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,  
  
Plaintiffs,  
  
vs.  
  
400 ACRES OF LAND, MORE OR LESS,  
SITUATE IN LINCOLN COUNTY, STATE OF  
NEVADA; and JESSIE J. COX., et al.  
  
Defendant.

Case No.: 2:15-cv-01743-MMD-NJK

**STIPULATION TO ENTER CONFIDENTIALITY AND PROTECTIVE ORDER &  
CONFIDENTIALITY AND PROTECTIVE ORDER**

This is a condemnation proceeding to determine just compensation for the taking of  $\pm$  400 acres of patented and unpatented mining claims ("Subject Property") by the United States of America (hereinafter "United States") through its power of eminent domain. The owners of the Subject Property on the date of taking include Defendants represented by the Law Offices of Kermitt L. Waters ("Groom Mine Landowners") and other defendants. Pursuant to Rule 26(c)(1) of the Federal Rules of Civil Procedures, IT IS HEREBY STIPULATED AND AGREED by and among the United States and the Groom Mine Landowners, through their respective counsel of record, that an unusual situation exists which must be addressed to protect the confidentiality of the Groom Mine

1 Landowners' trial strategy, consultant relationship and trial preparation in light of the security  
2 measures regarding access to the Subject Property.

3 This situation arises due to the security concerns outlined in the Affidavit of Colonel Thomas  
4 E. Dempsey (ECF 11-2) and the requirement that any individual who may need to view the Subject  
5 Property and/or conduct a site inspection is subject to security checks by the Air Force. Specifically,  
6 the Air Force requires the name and social security number of any individual participating in a site  
7 visit of the Subject Property as well as the time required for the site visit and a general description  
8 of what will occur on the site visit, including whether there will be any use of photography or any  
9 other type of equipment during the site visit.

10 Currently, the experts and/or consultants retained by the Groom Mine Landowners<sup>1</sup> need to  
11 conduct a site visit to prepare expert opinions and/or assist the Groom Mine Landowners' counsel  
12 in trial preparation. The names of any potential experts and/or consultants at this stage in the  
13 litigation are confidential and not yet subject to discovery by the United States. Additionally, the  
14 duration of time these individuals devote to a site visit and a description of what occurs at a site visit  
15 is also confidential and not currently subject to discovery by the United States. The intent of this  
16 stipulation is to insure that the security measures required for site access will not create an unfair  
17 litigation advantage for any party.

18 Accordingly, the parties and their counsel believe that a protective order restricting the use  
19 and/or dissemination of the names and social security numbers of any individuals participating in  
20 a site visit is necessary and appropriate to facilitate discovery and litigation in this action. The parties  
21 and their counsel further believe that a protective order restricting the use and/or dissemination of  
22 any information related to the Groom Mine Landowners' expert/consultant site visit including any  
23 description thereof is necessary and appropriate to facilitate fair discovery and good faith litigation  
24 in this action.

25 ACCORDINGLY, IT IS HEREBY STIPULATED AND AGREED by and among the parties  
26 in the above-entitled action, through their respective counsel of record, that:

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28 <sup>1</sup> Those represented by the Law Offices of Kermitt L. Waters (ECF 53)

1           1.       The United States will provide the name and corresponding email address for one  
2 individual at the Air Force to whom the Groom Mine Landowners' counsel will directly  
3 communicate regarding the expert/consultant site visit ("USAF Contact").

4           2.       The USAF Contact will not share any information it receives with any Air Force  
5 litigation counsel involved in this matter for the United States, including but not limited to any  
6 individual with the U.S. Department of Justice, the U.S. Attorney's Office, and/or any experts and/or  
7 consultants working on behalf of the United States in this matter.

8           3.       The Groom Mine Landowners' counsel will email to the USAF Contact the name and  
9 social security number of any individual participating in a site visit as well as the time required for  
10 the site visit and a general description of what will occur on the site visit, including whether there  
11 will be any use of photography or any other type of equipment during the site visit.

12          4.       The information provided to or received by the USAF Contact related to the  
13 expert/consultant site visit shall be used solely for Air Force security purposes while not violating  
14 the intent of this agreement. Accordingly, no Air Force litigation counsel involved in this matter,  
15 individual with the U.S. Department of Justice, the U.S. Attorney's Office, and/or any experts and/or  
16 consultants working on behalf of the United States in this matter shall be provided any information  
17 provided to or received by the USAF Contact.

18          5.       If the USAF Contact must disclose any information to any other individual at the Air  
19 Force either to run security checks or to conduct security checks at the site visit, then those  
20 individuals must also adhere to this Stipulation and Order.

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1           6.       The provisions of this Stipulation and Order will remain in effect while this case is  
2 in litigation, and will no longer apply once this case is concluded.

3           The Parties hereto and their counsel move this Court to enter a protective order approving  
4 this stipulation.

5           Dated this 7<sup>th</sup> Day of April, 2016

6 DANIEL G. BOGDEN, U.S. Attorney  
District of Nevada

LAW OFFICES OF KERMIT L. WATERS

7 TROY K. FLAKE  
8 Assistant U.S. Attorney

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9 By: /s/ Georgia Garthwaite  
10 GEORGIA GARTHWAITE  
11 Trial Attorneys  
12 United States Department of Justice

13 By: /s/ Johanna Franzen  
14 JOHANNA FRANZEN  
15 Trial Attorney  
16 United States Department of Justice

Attorneys for Defendant  
Sheahan Landowners

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18 IT IS SO ORDERED.

19 DATED this 27<sup>th</sup>  
20 \_\_\_\_\_ day of April, 2016

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22 UNITED STATES MAGISTRATE JUDGE  
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